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5495

Memorandum of Conversation

DATE: July 3, 1958

SUBJECT: Delivery of Aide-Memoire on Helicopter in East
Germany Case to Soviet Charge d'Affaires

PARTICIPANTS: The Under Secretary *O.K. - C.A.H.*
Mr. Sergei P. Striganov, Soviet Charge d'Affaires
Mr. Anatoli G. Myshkev, Second Secretary, Soviet Embassy
Mr. Kohler - EUR

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Mr. Striganov called this afternoon at the urgent request of the Under Secretary.

The Under Secretary referred to the question of the U.S. military personnel and helicopter presently being detained in Eastern Germany after a forced landing.

Governor Herter said that the U.S. Government was very concerned about this matter and was obliged to take it up with the Soviet Government again in view of the fact that there seemed to have been some misunderstanding in Moscow with respect to the facts of the case. It had now become clear that the U.S. military personnel in question had in fact been in custody of the Soviet Military authorities in Eastern Germany. Governor Herter then handed an aide-memoire to Mr. Striganov who proceeded to read it.

After reading the aide-memoire Mr. Striganov asked if he might comment. The reply being affirmative he proceeded to refer to his two previous conversations with Deputy Under Secretary Murphy at which time he told the latter that this was a matter which fell solely within the province of the German Democratic Republic and that negotiations for the return of the personnel and craft would have to be undertaken directly with that authority.

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Mr. Striganov then continued to rehearse the contents of the Soviet note of July 2 which constituted the official reply of the Soviet Government to U.S. representations in this matter. He stressed particularly the new contractual relationship of the Soviet Government and of the government of the German Democratic Republic. Governor Herter interrupted to inquire whether he was referring to the change in the relationship that had taken place since June 7, 1958 on which date the forced landing had taken place. Mr. Striganov said that he was referring to the period of the last 3 years, and then repeated again Soviet statements regarding the contractual relationship.

The Under Secretary pointed out that there was a contractual relationship between the U.S. and Soviet Government which related to this case. This contractual relationship could not be interfered with by a contractual relationship of one party thereto with a third party. Moreover one of the contracting parties could not without the consent of the other transfer to a third party the responsibilities which it had assumed. Governor Herter continued that since the receipt of the Soviet note it had become clear that these American personnel had been in Soviet custody -- indeed interrogated by the Soviet military. Mr. Striganov replied that he had no knowledge of this or of any press conference in Eastern Germany. The Under Secretary said that this was a fact and one that impelled us to renew our representations to the Soviet Government.

Mr. Striganov said again that the position of the Soviet Government had been made clear and expressed the opinion that the return of U.S. personnel and helicopter would not be expedited by continued U.S. approaches to the Soviet Government. The Under Secretary indicated that he expected the Soviet Government to reconsider the matter in the light of the established facts and the interview terminated on this note.

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AIDE-MÉMOIRE

On June 30 and July 1, 1958 the Department of State raised with the Soviet Embassy in Washington the detention since June 7 in the Soviet Zone of Germany of the crew and passengers of a United States Army helicopter and requested that arrangements be made for the immediate return of the man and the helicopter to United States control.

On July 2 the Department of State received from the Soviet Embassy a note which took exception to the position of the United States Government that the Soviet military authorities in Germany bear the responsibility for the return of the helicopter and its crew. The Soviet note states:

"From the moment of its landing the American helicopter and its crew have been in the custody of the German Democratic Republic. It is therefore natural that all questions pertaining to the return of the helicopter and its crew should be settled with the Government of the German Democratic Republic."

It is evident that the position taken in the Soviet note of July 8 is based on a misconception of the legal and factual situation.

As to the legal situation, the responsibility of the Soviet military authorities in this case is clearly established by the agreements between the United States and the Soviet Union cited in the Department of State's aide-memoire of June 20. This responsibility plainly remains unaffected in any way by internal arrangements which the Soviet authorities may make with the local German authorities of their Zone.

Furthermore, the direct responsibility of the Soviet Government is clearly confirmed by the uniform practice of the Soviet military authorities in Germany in cases prior to this one. The most recent case was the return of three United States airmen on May 28, 1958.

As to the factual situation, the Government of the United States points out that Soviet responsibility is clearly reflected by the initial action which the Soviet and local German authorities took in dealing with this case. During the press conference organized by the local German authorities on July 2 it clearly emerged

police when their aircraft was disabled and were immediately and properly turned over by the latter to a Soviet officer at a Soviet camp. While in Soviet custody, some of the men were interrogated by Soviet officers.

The Government of the United States expects that the Soviet Government will realize not only that the continued detention of the men is incompatible with Soviet responsibility established by agreement and confirmed in practice but also that the attempts of the local German authorities to extort some form of advantage from the situation cannot be reconciled with the practices of civilized communities.

The Government of the United States therefore reiterates its request that arrangements be made for the immediate release of the helicopter crew and passengers.

Department of State,

Washington, July 3, 1958.